

STAFF REPORT

01

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06/23/20

A2366

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L. Anderson

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Andrew D. Abramson and Amanda K. Abramson

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3860 North Lake Boulevard, near Carnelian Bay, Placer County

AUTHORIZED USE:

Use and maintenance of an existing pier and two mooring buoys not previously authorized by the Commission, removal of a third mooring buoy, and installation, use and maintenance of a boat lift.

LEASE TERM:

10 years beginning June 23, 2020

CONSIDERATION:

\$955 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- The lease provides that the public will be allowed to pass and repass underneath the pier and signs will be posted on each side of the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.

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- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of “as-built” plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor’s Executive Officer or designee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State’s Best Interests Analysis:

On January 26, 2018 the upland property was deeded to the Applicant. The Applicant is applying for a General Lease – Recreational Use, for the use and maintenance of an existing pier and two mooring buoys not previously authorized by the Commission, removal of a third existing mooring buoy, and the installation of boat lift. The pier was built in the 1960s. The Applicant has current TRPA permits for the two mooring buoys and the existing pier.

The proposed boat lift construction includes removal of an existing mooring buoy, and the installation of a new boat lift. The proposed project will be performed on-site with access to the site from the lake by a barge or boat. The buoy with anchor will be removed from the lakebed with a crane from a barge. Construction will take place after all required approvals have been obtained. The Applicant will follow all construction methods and timeframes provided by TRPA, Lahontan Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and two mooring buoys are used for the docking and mooring of boats and the proposed boat lift will facilitate recreational boating. Recreational boating is a water-

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dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The pier and mooring buoys have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being steep and rocky. The topography and location are difficult to navigate, however public access for pedestrians and lake-related activities is available at varying water levels underneath the pier. Signs that read "Public Passage Allowed Under Pier" will be placed on both sides of the pier. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease requires the lessee to ensure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant/current lessee may be required to remove the pier and mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to land along the State's inland and coastal waterways.

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3. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. **Existing Pier and Two Mooring Buoys:** Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).
5. **Removal of a Mooring Buoy and Installation of a Boat Lift:** Staff recommends that the Commission find that this activity is exempt from the requirements of (CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Pier and Two Mooring Buoys: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Removal of a Mooring Buoy and Installation of a Boat Lift: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs

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and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 23, 2020, for a term of 10 years, for the use and maintenance of an existing pier and two mooring buoys not previously authorized by the Commission, removal of a third existing mooring buoy, and installation, use and maintenance of a boat lift, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$955, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

A 2366

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – Pier

All those lands underlying an existing pier with catwalk and proposed boat lift lying adjacent to that parcel as described in Grant Deed recorded January 26, 2018 as Document Number 2018-0005078-00 in Official Records of said County.

PARCELS 2 & 3 - Buoys

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded January 26, 2018 as Document Number 2018-0005078-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/20/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

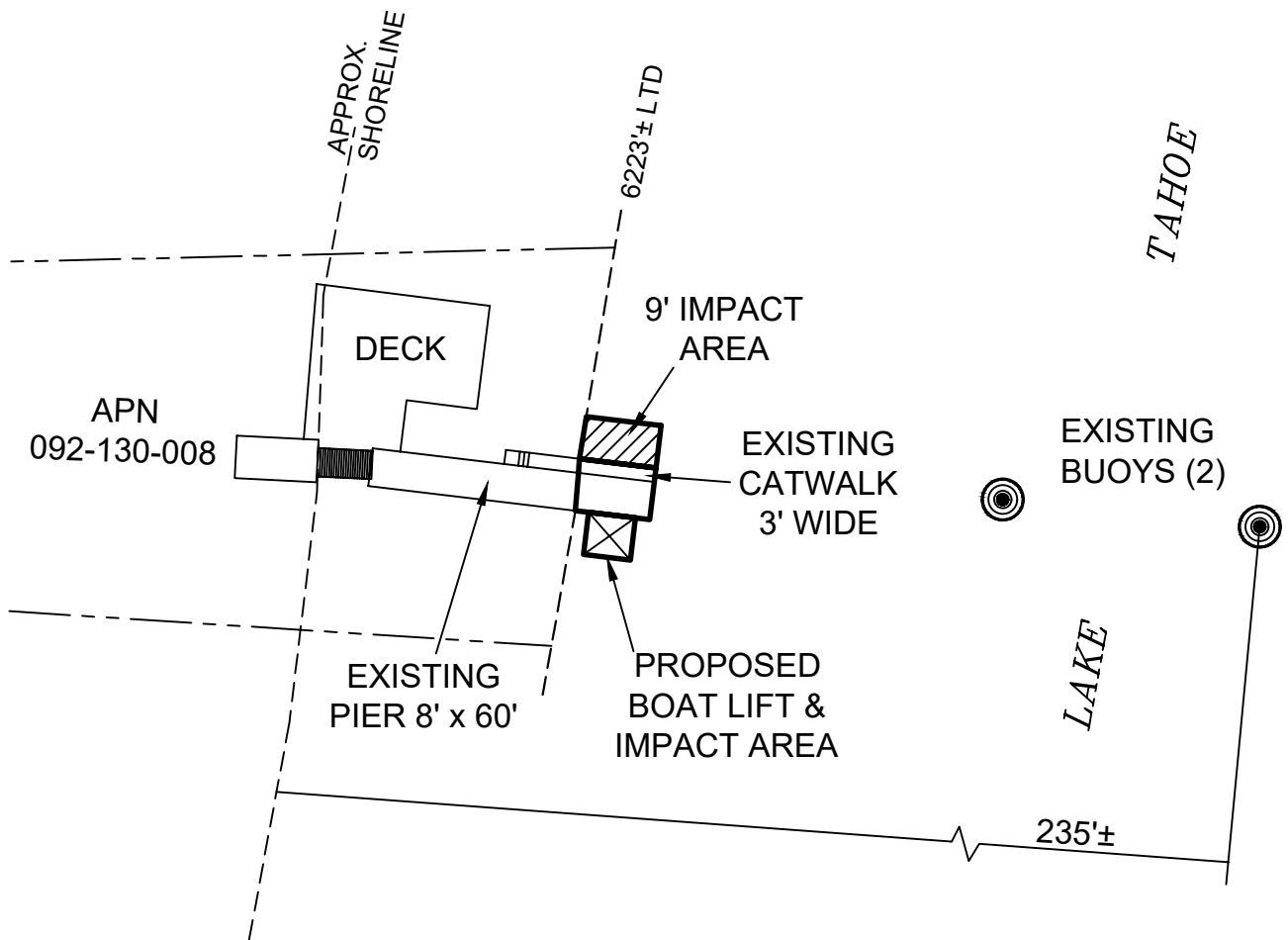


EXHIBIT A

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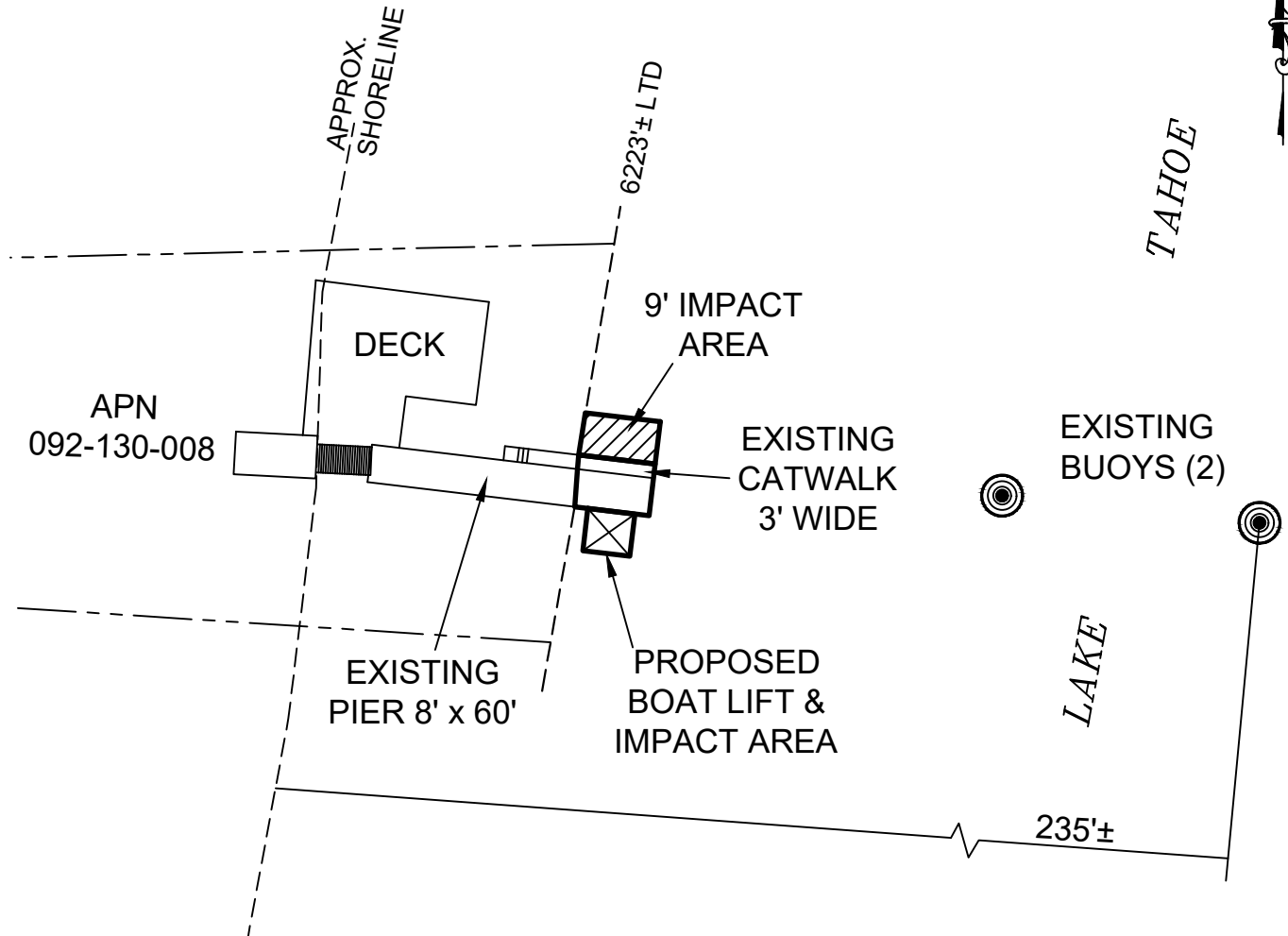
LAND DESCRIPTION PLAT
A 2366, ABRAMSON
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



3860 NORTH LAKE BLVD., CARNELIAN BAY, LAKE TAHOE

NO SCALE

LOCATION



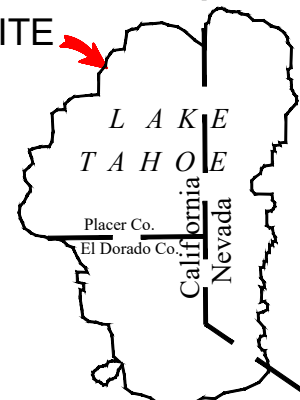
MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

A 2366
ABRAMSON
APN 092-130-008
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY

SITE



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